

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBRA SCHERBINSKI, Personal
Representative of Estate of Kenneth
Dalstra,

Plaintiff,

File No. 1:15-cv-474

v.

HON. ROBERT HOLMES BELL

JANELL PALMER et al.,

Defendants.

_____ /

ORDER

On December 3, 2015, Magistrate Judge Phillip J. Green issued an order denying Defendants' motion to seal Exhibit 2 to the complaint. This matter is before the Court on Defendants' appeal from that order. (ECF No. 32.)

According to the Local Rules of the Western District of Michigan, a party may appeal a magistrate judge's order within 14 days after service. W.D. Mich. LCivR 72.3(a). "A judge of the Court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law." *Id.*

In this case, the magistrate judge denied the motion to seal because Defendants failed to demonstrate good cause, as required by Rule 10.6(b) of the local rules. Defendants' motion relied exclusively on the protective order entered in this case, but the protective order itself indicates that it does not authorize the filing of documents under seal. The magistrate judge

denied the motion without prejudice, stating that “[u]nless and until defendants can establish . . . good cause, the exhibit will remain on the public record.” (ECF No. 24.)

Upon review, the Court does not find the magistrate judge’s order to be clearly erroneous or contrary to law. In their appeal, Defendants argue for the first time that allowing public view of the document at issue would compromise the safety and security of facilities at the Michigan Department of Corrections (MDOC), as well as the efficacy of internal affairs investigations. This argument can, and should, be presented to the magistrate judge. Accordingly,

IT IS HEREBY ORDERED that Defendants’ appeal (ECF No. 32) is **DENIED**.

Dated: January 25, 2016

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE